

Department of Energy

§ 1040.23

the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

(3) Paragraph (a)(1) also applies to covered employment as defined in § 1040.12(a)(2).

(b) Enforcement of title VI compliance with respect to covered employment practices is not to be superseded by State or local merit systems relating to the employment practices of the same recipient.

Subpart C—Nondiscrimination on the Basis of Sex—Title IX of the Education Amendments of 1972, as Amended

§ 1040.21 Purpose.

The purpose of this subpart is to implement title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by Pub. L. 93-568, and Pub. L. 94-482, which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not the program or activity is offered or sponsored by an educational institution as defined in this subpart.

§ 1040.22 Application.

Except as provided in §§ 1040.25, 1040.26, and 1040.27, this subpart applies to every recipient and to each education program or activity operated by the recipient which receives or benefits from Federal financial assistance.

§ 1040.23 Definitions.

(a) *Title IX* means title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by sec. 3 of Pub. L. 93-568, 88 Stat. 1855, (except secs. 904 and 906 of the Amendments), 20 U.S.C. 1681, 1682, 1683, 1685, and 1686.

(b) *Educational Institution* means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a pre-school, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraphs (c), (d), (e), or (f) of this section.

(c) *Institution of graduate higher education* means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in the field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(d) *Institution of undergraduate higher education* means:

(1) An institution offering at least two, but less than four years of college level study beyond the high school level leading to a diploma or an associate degree or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(e) *Institution of professional education* means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(f) *Institution of vocational education* means a school or institution (except an institution of professional, graduate, or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semi-skilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full time study.

(g) *Administratively separate unit* means a school, department, or college of an educational institution (other

§ 1040.24

than a local educational agency), admission to which is independent of admission to any other component of the institution.

(h) *Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(i) *Student* means a person who has gained admission.

(j) *Transition plan* means a plan subject to the approval of the United States Commissioner of Education under sec. 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination. The definitions set forth in § 1040.3 of subpart A of this part, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 1040.24 Effects of other requirements.

(a) Effect of other Federal provisions. The obligations imposed by this subpart are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); Executive Order 11246, as amended; Sec. 799A and Sec. 845 of the Public Health Service Act (42 U.S.C. 295h-9 and 298b-2); the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other Act of Congress or Federal regulation.

(b) Effect of state or local law or other requirements. The obligation to comply with this subpart is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) Effect of rules or regulations of private organizations. The obligation to comply with this subpart is not obviated or alleviated by any rule or regulation of any organization, club, ath-

10 CFR Ch. X (1-1-00 Edition)

letic or other league or association, which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

§ 1040.25 Educational institutions controlled by religious organizations.

(a) *Application*. This subpart does not apply to an educational institution which is controlled by a religious organization to the extent that application of this subpart would not be consistent with the religious tenets of such an organization.

(b) *Exemption*. An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section is to do so by submitting, in writing, to the Director a statement by the highest ranking official of the institution identifying the provisions of this subpart which conflict with a specific tenet of the religious organization.

§ 1040.26 Military and merchant marine educational institutions.

This subpart does not apply to an educational institution whose primary purpose is the training of individuals for military service of the United States or for the merchant marine.

§ 1040.27 Membership practices of certain organizations.

(a) Social fraternities and sororities. This subpart does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under Sec. 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) Y.M.C.A., Y.W.C.A., Girl Scouts, Boy Scouts, and Camp Fire Girls. This subpart does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts, and the Camp Fire Girls.

(c) Voluntary youth service organizations. This subpart does not apply to